

# **Regulation & Cross Border Developments**

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Distinguished Guests, Ladies and Gentlemen

It is a truly exhilarating experience to be here in Doha – in a centre of such great energy. The pace of development is spectacular and impressive. This makes it an exciting city and one which has proved very attractive to many of my countrymen – so much so that not only have they visited but, in many cases, emigrated here to work.

I am today speaking on behalf of IOSCO – the International Organization of Securities Commissions. Among our members are significant representation from this region and we look forward to more of you joining us. We value IOSCO's global reach and we would welcome even greater participation from this part of the world.

We note with great interest the recent establishment of the Arab Union for Securities Commissions. This new Union has unanimously chosen Dr Bassam Saket, Executive Chairman of the Jordan Securities Commission, as its first chairman and Mr Abdullah Tarifi, the Chief Executive of the Emirates Securities and Commodities Authority, as the first Secretary General.

Dr Saket is currently Deputy Chairman of IOSCO's Emerging Markets Committee and Mr Tarifi's organisation is also an IOSCO member – so we already have strong links with the new Arab Union of Securities Commissions. Its objectives are to cooperate and exchange information and expertise among member countries. I commend the Union's aims of efficient, fair and transparent markets, investor protection and raising standards of securities

regulation – objectives firmly aligned with those of IOSCO – so we also share common interests and we look forward to strong and cooperative relationships in the future.

## **Globalisation**

Globalisation of information is a daily fact of life. We are all now used to it, we expect it – and certainly we cease to marvel at it. Since we arrived here in Doha, many of us will have pushed the send key – and instantly our messages have reached people as far away from here as it is possible to be.

This remarkable technology has also enabled the movement of capital with the same instantaneous speed from country to country, continent to continent. It has brought exciting new opportunities for the securities industry as issuers access new markets and promote new products. It also provides new horizons for investors to take up opportunities in markets far from their homelands. Traditional borders have literally disappeared in this brave new world.

Of course, the down side is that the same opportunities are available to criminals. It no longer matters where fraudsters are – or where their partners in crime are. They can operate in many jurisdictions, from false addresses, using bank accounts in different countries. This leaves little trace of their operations to provide evidence that will lead to their detection and prosecution. In this modern borderless world many of the traditional means of detecting and combating securities fraud and crime have lost their effectiveness.

Regulators are hampered in their ability to enforce securities law when the perpetrators are outside their jurisdictions. This phenomenon has been a concern for the International Organization of Securities Commissions (IOSCO) for some years now and I want to devote some of my time this morning to bringing you up-to-date with the significant progress IOSCO is making in this area.

I will also discuss the highlights of IOSCO's work to raise standards of securities regulation worldwide, and to increase dialogue with the financial community and with business.

But first let me step back a little and, for those here who are not au fait with IOSCO, outline the organisation itself and how it works.

## Overview of IOSCO and its Role

IOSCO is the global standard-setter for securities regulation. Its members are securities regulators of over 100 jurisdictions, together accounting for more than 90% of the world's securities markets. Our membership literally spans the globe, from the Americas, Africa, Asia and the Pacific, Europe ... and, of course, the Middle-East where a number of regulators are IOSCO members.

IOSCO has three objectives which aim to deliver high standards of regulation of securities markets. They are to protect investors, to ensure the fairness, efficiency and transparency of the markets, and to reduce systemic risk. Underpinning these are the IOSCO *Principles of Securities Regulation* endorsed in 1998. The establishment of the *Principles* in 1998 and their acceptance worldwide was a significant global achievement.

The *Principles* are internationally accepted as key standards for sound, well-functioning financial systems. The IMF and World Bank use the *IOSCO Principles* in their Financial Sector Assessment Programmes and the IMF uses this assessment also to test the financial stability of its member jurisdictions.

The IOSCO *Principles* cover a wide range of regulators' activities and their enforcement of securities law. These include regulators' responsibilities and powers; cooperation between regulators; basic requirements of issuers and market intermediaries; and oversight of self-regulatory organisations. They also deal with collective investment schemes and the functioning of secondary markets.

They set high level benchmarks for any country's regulatory system. Let me give you examples:

1. the regulator should be operationally independent and accountable in exercising its functions and powers;
2. the regulator should have comprehensive inspection, investigation and surveillance powers;

3. the regulatory system should enable the regulator to assist foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.

Just three examples – but how significant they are. A jurisdiction with an independent, properly resourced regulator that enforces standards relating to good corporate governance, and that can share information with its counterparts in other jurisdictions, has the ability to effectively fight financial crime.

The *Principles* are the foundation for all IOSCO's work. They are not highly prescriptive but they establish clear international expectations for regulating securities markets. They are sufficiently high level to be implemented through structures and processes best suited to each jurisdiction.

IOSCO's members are committed to effective regulation and the confidence that brings for the integrity and growth of securities markets. So IOSCO is proactive. It is structured to effectively identify and address issues that affect, or are likely to affect, the markets, as they arise. IOSCO provides practical solutions and assistance, both to its members and to the international financial community, on issues and risks related to securities markets.

The Executive Committee, which I am privileged to chair, is the governing body. It takes all necessary actions to achieve IOSCO's objectives. Then there are two specialized working committees.

The Technical Committee makes a proactive, risk-based assessment of the global financial landscape and anticipates developments. It reviews regulatory issues in the international markets and coordinates practical responses. The Emerging Markets Committee helps develop and improve the efficiency of emerging securities and futures markets. These Committees have standing committees and working groups for specific matters, and special task forces are set up as needed. The four regional committees identify and address regional concerns and common interests.

Self-regulatory organisations who are affiliate members of IOSCO also have constructive input into IOSCO's work through the SRO Consultative Committee.

Bringing all this together is the General Secretariat in Madrid which coordinates all IOSCO's work and assistance programmes and supports all the committees and working groups.

IOSCO has an enviable record of consensus-building among its broad and varied membership, and of delivering solutions on regulatory issues that are practical for all parties. We seek international consistency and alignment, while acknowledging the important economic, political and cultural differences of individual jurisdictions.

IOSCO works closely with many other international organisations and standard-setting bodies - for example the Basel Committee on Banking Supervision and the International Association of Insurance Supervisors – our sister standard-setting bodies. Together we have formed the Joint Forum to discuss issues of common interest.

We are part of the Financial Stability Forum. We have strong relationships with other organizations that share our interest in strengthening the financial system and capital markets. These include the IMF, the World Bank, and the OECD, who are also affiliate members of IOSCO. We seek to cooperate and consult with all organisations that can help promote efficiency, fairness and transparency in capital markets at both national and international levels. Indeed, IOSCO is a vital part of the complex web that makes up the international financial architecture.

### **Strategic achievements**

So with that background I now turn to IOSCO's achievements and the rapidly developing role IOSCO is playing to enhance the integrity of the world's securities markets.

In recent years IOSCO has moved up several gears in its activities. It has lifted its sights strategically to embrace and commit to demanding goals. It confirmed its role as an equal partner with the important international institutions of the financial community. At the same time IOSCO has honed its long-time educational skills and developed its operational capacity to more effectively and quickly achieve its strategic goals.

Following the development and acceptance of the *Principles* in 1998, IOSCO set about encouraging and assisting members to implement the *Principles* with a view to eventual global implementation.

Then came the high profile financial scandals early in this century. In some of these cases investors collectively lost hundreds of millions of dollars. Added to this were the issues of non-transparent markets and terrorist financing. This led to serious concerns by governments and others about investor confidence in the integrity of global capital markets.

IOSCO appointed a task force to inquire into the regulatory issues exposed by these corporate collapses and to identify any broad trends. The Task Force considered many aspects including corporate governance structures, auditor standards, continuous disclosure principles, bond market regulation and transparency, roles and obligations of market intermediaries, and the role of private sector information analysts.

The task force found that the standards necessary for regulatory effectiveness against weaknesses in capital markets already existed but they were not universally implemented. It also found that regulators could not effectively exchange information to help detect and prosecute cross border financial fraud. It was essential to address this in order to overcome potential regulatory deficiencies that might arise given the cross-border operation of so many issuers and investors in the modern capital markets.

The task force recommended that all IOSCO members be encouraged to implement the IOSCO Principles to achieve consistent high standards of regulation, and that high priority be given to a multilateral Memorandum of Understanding on cooperation and cross border exchange of information.

## **IOSCO MOU**

The Multilateral MOU, adopted by IOSCO in 2002, enables regulators to share information for enforcement action against those who have broken securities laws. It requires signatories to be able to demonstrate their willingness and capacity to exchange information in relation to

securities breaches and sets a high standard in this regard. As more and more regulators sign on an ever expanding network for cooperation is developing.

### **New strategic direction 2005**

In 2005 IOSCO members, recognising the urgent need to make the IOSCO MOU fully operational, took another bold step and adopted a new strategic direction. As part of this a deadline of 1 January 2010 was set for all member jurisdictions to become signatories to the MOU, or at least be committed to doing so. This is a landmark achievement in terms of international cooperation, and it will achieve a seamless arrangement for information flows between securities regulators worldwide.

Currently there are 36 full signatories to the MOU and another 11 are formally committed to joining. The standards are necessarily high, and some jurisdictions have work to do before being approved as signatories. We are working hard to provide assistance for members who are seek help to meet the requirements. This includes providing expert advisers and sourcing funding for action plans and law reform projects.

Already the MOU has proved extremely valuable in practice for many members. We in New Zealand have used the MOU many times for requests for information by our Commission to overseas authorities including in one reasonably high profile insider trading case. We have also gathered information for other jurisdictions.

### **Strategic direction – industry**

As IOSCO's strategy has broadened to include a more operational role it was clear that greater involvement and cooperation with industry was needed. This became another focus of the 2005 Strategic Direction. We built on our earlier efforts to engage with others involved in the international financial markets. The aim is to listen to industry's views on matters such as risks inherent in the global economy, the most appropriate regulatory responses, and the likely burden of any new regulatory initiatives.

This enables us to take industry views and ideas into account in both standard setting and other initiatives and responses.

Increased opportunities for dialogue have been created by the Technical Committee's Conferences which have been held in New York, Frankfurt and London respectively in the past three years. The next is in Tokyo later this year.

These events are specifically designed to reach out to the international financial community and we are delighted with the response in the form of useful dialogue, and exchanges of views and ideas. However, IOSCO is keen to take this further, and the Technical Committee has a working group considering a permanent mechanism to enable ongoing and effective industry input. We have accorded this high priority.

## **IFRS**

I said before that IOSCO is proactive – it has a very good history of recognising issues that are likely to arise in the future and promoting solutions. A visit to the website – [www.iosco.org](http://www.iosco.org) – will show you the raft of reports and releases on highly relevant issues.

As the world moves to International Financial Reporting Standards, IOSCO has taken a lead that will help ensure that any inconsistencies in interpretation are identified and can be addressed. The aim of IFRS is a global set of standards that will allow investors to understand and compare financial statements. This requires consistent implementation in every jurisdiction. All those involved - the preparers of financial statements, the auditors, and regulators - need to take a common approach.

IOSCO has established a database for regulators to enter information about the implementation of IFRS. They can also access the database to find out how others have dealt with certain issues – enabling them to learn from each other. When varying interpretations of a standard are found, IOSCO will refer this to the International Accounting Standards Board for consideration and action.

It is also a valuable tool for easing regulatory requirements, particularly for those companies that operate in a number of countries.

The database became operational just a few weeks ago and we expect it to be heavily used.

**In summary**

The changes to the capital markets continue to gather pace. Globalisation of capital, consolidation of exchanges, the diversity of financial products, the increasing significance of private capital, all make for a more complex and ever-changing environment.

IOSCO, as the international organisation for securities regulators, has stepped up its responses, in order to protect investors, ensure fairness in the market, and reduce systemic risk. IOSCO members are committed to raising regulatory standards and consistency.

There is also benefit in closer relationships with and dialogue between regulators and the industry. IOSCO's efforts to increase this are enabling industry views to be taken into account in standard setting and reporting on many issues affecting, or likely to affect the international capital markets.

International fraud knows no boundaries. The IOSCO MOU provides an efficient and effective mechanism for fighting financial fraud and we are committed to having all member jurisdictions on board by 2010. This will enable effective regulatory action against international financial fraud.

However, even with the highest quality regulatory standards, fully implemented and enforced, it is not possible to completely eliminate securities fraud. All stakeholders, including issuers, investors, auditors, analysts and intermediaries need to be vigilant so that market misconduct and abuse are minimised.

By working together we believe that the international markets can indeed be fair and transparent, and that investors can have confidence in them.

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